1951 K **File No.** Home Guards
II | 51 (R)
Legal Dept-
B **BRANCH**

Subject:— Rules under the Bombay Home Guards Act 1947.

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Legal Department.

A revised dreft of the Bombay Home Guards Rules, 1951, in place of the H.D. dreft at pages 47 to 67 is sent herewith subject to the following observations :-

1. Sub-section (2) of section 2 of the Bombay Home Guards Act, 1947 provides that the State Government shall appoint a Commandant of each of the Home Guards constituted under sub-section (1). It is not, therefore, necessary to make a distinction in the Acts between the "Commandant, Home Guards, Greater Bombay" and " the District Commandants."The word "Commandant" will be sufficient for the purpose.

2. Rule 2(7):- The Commandant General has no power of making appointment independently under section 3(2). When a member is appointed by the Commandant, the Commandant General is to appoint such member to any post under his immediate control. In view of this position the proper authority to grant certificates of appointment is the Commandant and not the Commandant General.

3. Rule 2(8):- The expression "in deserving cases" is vague. The sub-rule has been revised so as to enable the Commandant to accept resignation of a member of the Home Guards if he is satisfied with the grounds stated in the resignation.

4. Rule 3:- Under sub-section (3) of section 2 of the Act inserted by the Bombay Home Guards (Amendment) Act, 1950, the State Government is given the power to appoint a Commandant General of the Home Guards. Instead of stating that the Home Guards Organisation shall consist of the Commandant General

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who shall be the head of the organization in the State, it would be more appropriate to say ~~thkxthat~~ "in addition to the Commandant General, the Home Guard constituted for each area shall consist of a Commandant etc. ....."

5. Rule 5:- It appears from H,D. note at page 839 against rule 5 that the proposal ~~fxk~~ of the Commandant to substitute the word 'Superintendent' for the word 'Inspector' has not been approved. But in H.D.'s draft the necessary amendment has not been carried out. Rule 5 has now been revised to implement Home Department's decision.

6. Rule 8:- Clause (c) of sub-rule (1) of rule 8 provides that the functions and ~~durite~~ duties of members of the Home Guards shall ordinarilly consist of assisting the ordinary police force in prohibition. What appears to be intended is that the menbers of the Home Guards shall assist the ordinary police in enforcing the provisions of the Bombay Prohibition Act, 1949. This clause also has been split up into two, namely, clauses (c) and (d)

7. (1)Form A:- The Commandant General has proposed the substitution of the word "Citizen" for the words "subject of the Republic" but no such words appear in this form. Form A originally contained the words "British Subject" but they were changed in 1947 into subject of the Dominion of India under Government Notification, Home Department No. 893/5, dated the 31st December 1947. Since then the Constitution of India has come into force and in Chapter II thereof the provision regarding acquiring of citizenship has been made and the expression "citizen of India" is used in article 5. That expression may therefore be used in form A.

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(2) It appears from H.D. note at page 41 that clauses 11 to 14 have been newly added to this form. The last clause 14 which provides that in certain circumstances an application should be sent through the officer in charge of the office under whom the applicant is servin, has beeb added in this formas Note No. 1. Clauses 11, 12 and 13 are in the form of questions and replies. The appropriate appropriate method, therefore, for the applicant to supply the information would be to ask him to make a statement that the answers to the following questions are as given against them. Clauses 11 to 13 are therefore reproduced in the revised draft in the form of questions 1 to 3.

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Deputy Secretary to Government.

U.R. to H.D. No. 16705, dated the 20th October 1951.

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